IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.792 OF 2005
IN
WRIT PETITION NO.1518 OF 2005

VVF Limited — Appellant

vs.

Sarva Shramik Sangh & anr. — Respondents

Mr.P.C.Pavaskar for the appellant.

Mr.Vinod Shetty for the respondents.

CORAM : R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED : 27th January 2006

P.C.

Heard Mr.P.C.Pavaskar, the learned counsel for the appellant and perused the impugned order.

2. The employer is in appeal. It is not in dispute that despite the order of remand passed by this Court directing the Labour Court to permit the employer to adduce evidence to justify the order of discharge, no evidence was led. Mr.Pavaskar, the learned counsel for the appellant-employer submits that even if no evidence was led by the employer before the Labour Court justifying the order of discharge, after the order of remand passed by this Court, it was open to the employer to rely upon the material/evidence produced before the

Enquiry Officer in proof of the misconduct of the workman. We are afraid, the submission is fallacious and without substance. If the employer were to rely on the material/evidence produced before the Enquiry Officer for proving the misconduct of the delinquent and if that material/evidence was sufficient to justify the order of discharge, where was the occasion for the employer to seek indulgence of this Court in the earlier writ for leading the evidence before the Labour Court to justify the order of discharge. It is too late in the day for the employer now to urge that the material/evidence produced in the domestic enquiry to justifies the order of discharge when the findings recorded by the Enquiry Officer have already been held to be perverse and the appellant had already failed in the earlier writ petition to satisfy the Court that the order of discharge was justified on that evidence.

3. The appeal has no merit and does not deserve to be admitted. Dismissed in limine.

(R. M. LODHA, J.)

(ANOOP V. MOHTA, J.)